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THE REPRESENTATIVE INEQUALITY OF SENATORS.

BY SYLVESTER BAXTER.

A FUNDAMENTAL principle in our national government is the parity of the States of the Union, as expressed by their representation in the Senate. It is worth while to examine, in the light of the facts as to population exhibited by the Twelfth Census, to what extent this may have effected a disparity in citizenship—an equality of all men behind the law, as well as before it, being an indispensable condition of true democracy.

The essence of a State is the community for which it stands, not the territory which the community occupies. Properly, a State's size is not expressed by the area over which it is spread, but by its population. The accompanying table, showing in the population the true size of the various States of the American Union, therefore, makes a significant presentation:

SIZE OF STATES BY POPULATION.

New York.....	7,268,894	South Carolina.....	1,340,316
Pennsylvania.....	6,802,115	Arkansas.....	1,311,564
Illinois.....	4,821,550	Maryland.....	1,188,044
Ohio.....	4,157,545	Nebraska.....	1,066,300
Missouri.....	3,106,665	West Virginia.....	958,800
Texas.....	3,048,710	Connecticut.....	908,420
Massachusetts.....	2,805,346	Maine.....	694,466
Indiana.....	2,516,462	Colorado.....	539,700
Michigan.....	2,420,982	Florida.....	528,542
Iowa.....	2,231,853	Washington.....	518,103
Georgia.....	2,216,331	Rhode Island.....	428,556
Kentucky.....	2,147,174	Oregon.....	418,536
Wisconsin.....	2,069,042	New Hampshire.....	411,588
Tennessee.....	2,026,616	South Dakota.....	401,570
North Carolina.....	1,893,810	Vermont.....	343,641
New Jersey.....	1,883,669	North Dakota.....	319,146
Virginia.....	1,854,184	Utah.....	276,749
Alabama.....	1,828,697	Montana.....	243,329
Minnesota.....	1,751,394	Delaware.....	184,735
Mississippi.....	1,551,270	Idaho.....	161,772
California.....	1,485,053	Wyoming.....	92,531
Kansas.....	1,470,495	Nevada.....	42,835
Louisiana.....	1,381,625		

After the four largest States, New York, Pennsylvania, Illinois and Ohio—all well past the four-million figure—stands Missouri,

with something more than three million. States that are within 250,000 of each other may be regarded as substantially on an equal footing. Regarded in this way, we see Missouri and Texas standing together. The State east of the Alleghenies that is not infrequently called "little" Massachusetts, stands well ahead of "pivotal" Indiana; and, since the rate of growth of the former is nearly twice that of the latter, the roomier State gives no promise of overtaking the other so long as present tendencies obtain. Even stupendous Texas is yet in practically the same class as Massachusetts, which it surpasses by less than 250,000. There are ten States smaller in population than diminutive Rhode Island.

The disparity among the States may be illustrated by comparing the two that represent the greatest extremes in this respect—New York and Nevada. New York has a population of 7,268,894; Nevada has 42,335. Therefore, one resident in Nevada is privileged with a representation in the national Senate equal in effectiveness to that of more than 171 residents of New York. Let us imagine the two Senators from New York and the two Senators from Nevada voting on opposite sides of a question—perhaps some question of vital importance—as they frequently may do. In the exercise of this function, they might graphically be depicted as sitting at opposite ends of a balanced plank, like boys in a game of see-saw. If the plank were so pivoted as to express the relative size of the two States in population, the New York side would be more than 171 times as long as the Nevada side. So, allowing only a length of one inch to Nevada, the New York portion would have a length of more than 14 $\frac{1}{4}$ feet. Tiptoeing upon their scanty foothold, Senators Stewart and Newlands would keep their end perfectly level against the weight of Senators Platt and Depew, exerted more than 14 feet away on the other side. Let us regard the two New York Senators as men of normal weight—say 165 pounds. In order to balance themselves against such a leverage the Nevada Senators would each have to weigh as much as 28,215 pounds!

The total population of the United States, according to the Twelfth Census, is 76,305,387. The population of the 45 States is 74,181,336. New York has nearly ten per cent. of this figure, Pennsylvania about 8 $\frac{1}{2}$ per cent., Illinois about 6 $\frac{1}{2}$ per cent., Ohio about 5 $\frac{1}{2}$ per cent., Missouri about 4 $\frac{1}{2}$, and Massachusetts over 3 $\frac{1}{2}$ per cent. These six States have altogether about 38 $\frac{1}{2}$

per cent. of the total population of the States. But their combined voting strength in the Senate is only 12 out of 90.

On the other hand Nevada has about one-seventeenth of one per cent. of the population of the States, Wyoming about one-eighth of one per cent., and Idaho a little more than one-fourth of one per cent. The nine States grouped in the census returns as the Western Division, comprising those that extend from the Rocky Mountains to the Pacific, have a total population of 3,773,108, or about one-twentieth of the whole. Yet they have a representation of 18 in the Senate, or one-fifth—a representation equal to that of the nine North-Atlantic States with their population of 21,046,695, or nearly 30 per cent. of the whole. The 18 States west of the Mississippi, including Minnesota, have a population of 18,480,805; the 27 States east of the Mississippi, including Louisiana, have a population of 57,700,531. This gives 36 Senators to about one-quarter of the total population of the States and 54 Senators to three-quarters. There are fifteen States each of which has less than one per cent. of the total population. The combined population of these fifteen States is 5,256,512. These States, therefore, with less than one-fourteenth of the population of all the States, are represented by one-third of the Senate.

It is difficult to see how fair-minded and sanely thinking persons can reconcile this great disparity among the States with any conception of political equity, such as should obtain among a free and self-governing people. This disparity has increased greatly in recent years, and it is certain to increase still further.

Ever since the erection of West Virginia and Nevada into independent States, considerations of political expediency have mainly governed the creation of new entities in the Federal Union. These policies have occasionally proved very short-sighted, as steps actuated by such considerations are likely to be, and have reacted upon the party responsible for them—as in the Populistic wave that swept into opposition the entire batch of the most recently created States. These political considerations, however, were reinforced by a sort of perverted altruism—the kind that yields to the desires of another, regardless not only of the interests of the giver, but of the whole, in which both giver and receiver alike constitute a part; the sentiment that induces parents to give to children what they want, not so much for the sake of pleasing them as to get rid of an uncomfortable clamor. Hence, a weak

sense of fairness, a desire to help along a young and growing section of the country, and a patriotic impulse to add another star to the flag, have fed, regardless of party, a sentiment in favor of every proposed step of this kind. Fewer stars in the flag, however, would not have meant any less population in the country. But it would have meant fewer multi-millionaires in the Senate-chamber, fewer purchased Legislatures, less wholesale corruption as a tradition in the establishment and maintenance of a State's relation to the National Government, and in the councils of the most powerful arm of the government a slighter preponderance of the influences proceeding from such sources.

A strong motive in the erection of new States has been the sentiment that no considerable part of the population should be without a voice in the conduct of national affairs. Undesirable as such a lack of representation might be, it is far more undesirable that those elements should be appeased by according them a tremendous over-representation. In establishing these new relations of Statehood, contrary to the normal policy in such concerns, an immense premium has thus been put upon immaturity and inexperience in government. Raw young communities, grown out of yesterdays, have not only been given equal seats in the councils of the nation beside historic commonwealths, rich in the greatest traditions of modern democracy; the newcomers at the board have been clothed with powers that multiply many fold their normal strength.

This need not have been. Due representation of the younger communities might have been accorded without intrusting them with a control of affairs similar to that which would prevail in a business house should the clerks, after a sufficient probationary service, be admitted to partnership under conditions that straightway gave them a voice superior to that exerted by the original associates. For example, the entire section from the Rocky Mountains to the Pacific, comprised in the "Western Division" of the Census returns, might in all equity have been made one State—perhaps constituted with various territorial subdivisions corresponding, say, to the States and Territories that now exist. These subdivisions might have had the same relation to the State government that the organized Territories have to the National Government. And it might have been provided, in a manner similar to that of the reserved right possessed by Texas, that when any of

these subdivisions attained a population that would confer a normal Statehood—a population, say, of one million—it should have the right to resolve itself into a full-fledged member of the Union. California is the only State in the entire group that has surpassed that figure; not one of the others has even approached it. And the population of the entire group of nine States and two Territories is less than that of Ohio.

Repeated opportunities have been presented for remedying the evil, at least in a considerable degree, along such lines. For instance, it was proposed to join Utah to Nevada instead of erecting it as an independent State, just as lately it has been proposed to admit Oklahoma and consolidate the Indian Territory with it. But presumptive political expediency and undue deference to local desires, together with sectional insistence upon exalting an already inordinate preponderance, will doubtless take care to see that the Indian Territory becomes a separate State, just as these influences have secured the multiplication of as many small States as possible in that part of the country.

The whole policy of the admission of new States has gradually, and almost unconsciously, shaped itself. The first were admitted under conditions similar to those that governed the union of the original thirteen, when large States and small practically balanced each other. Without the parity of the States agreed upon at the outset, the Union would have been impracticable. But could the tremendous disparity in population, and consequently in equitable representation, that was to come with the erection of new States, have been foreseen by the framers of the Constitution, they would naturally have taken alarm, and probably would have instituted some more equitable procedure.

It is profitless, however, to consider what might have been, save in so far as it may serve to guide us as to what ought hereafter to be. Beyond the status of the territorially organized remainders of the Far West, now almost as good as settled, there loom up the more distant problems of potential new States in sub-Arctic and Arctic Alaska, in West-Indian dependencies, in Polynesian Hawaii—already an organized Territory—perhaps even Tutuila and Guam, not to mention the Philippines. All these are possibilities of a future that perhaps lies not so very remote, and which, under the pressure of this or that political expediency, may become actualities. Then there is no telling when sectional considera-

tions, or a party emergency, may rise superior to State pride and cause Texas to take advantage of her reserved rights and resolve herself into four States. As to Cuba, but for the foolish sentimentality of the Teller resolution, that island might now have been as prosperous and as untroublesome as Porto Rico. But, thanks to that piece of legislative emotionalism, when Cuba does come in, it must be upon her own terms, doubtless just as Texas came, a free and sovereign State, perhaps also with reserved rights that may include potential subdivision into other States.

Together with the development of these disparities in population and representation, there may incidentally have been some little compensating good. Some of the new commonwealths are formulating new polities; shaping their courses according to new conditions determined by growth in virgin soil, just as the old ones did when blazing the way for modern democracy. Hence, these novices in the Union are, to no little extent, serving as experiment stations and training-grounds for the newer democracy in relation to the rest of the country—just as Australia and New Zealand are acting for the world at large, likewise because their ground is unencumbered by precedent and tradition. Possibly some of the worst of these disparities may eventually disappear, or at least be very greatly diminished, with the growth of population in favorably situated parts of the new States—as under the conditions of intensive cultivation, and consequent density of population, that will be likely to come about in the arid regions where artificial irrigation is developed.

However this may turn out to be in a remote future, at present the resultant conditions are most inequitable, and for a long time to come must continue so. They give baleful significance to the fact that the Senate is the most powerful arm of the government, for its power may readily be exerted to impose the will of a minority upon the majority. A study of the votes cast in the Senate, particularly upon important questions, might reveal that this has occurred much oftener than is commonly suspected. The recent beet-sugar iniquity indicates that even an overwhelming public sentiment has little weight against the wilful exertion of this power in behalf of a comparatively insignificant selfish interest.

It is easy enough to point out the evil and to indicate its sources. It is not so easy to suggest the remedy. And the application of a

remedy would be a task of appalling difficulty. If the absolute separation of the executive and the legislative functions of the government could be assured, so far as the exercise of one power by those who are intrusted with the other is concerned, the evil would be much less. The equality of representation in the popular branch of the Congress might then largely offset the inequality that prevails in the other House. But the Senate achieves its inordinate power mainly by the fact that, in its practical control of appointments to office, it becomes part of the executive as well as of the legislative branch of the government. In the ambassadors of the sovereign States at the national capital, as the Senators have been called, we therefore have 90 Assistant-Presidents, discharging executive functions with the inefficiency in results that invariably attends a divided responsibility.

It would probably be easy to devise an efficient system under which the desired check upon Presidential appointments might exist, while avoiding the present blending of executive and legislative functions. For instance, the scrutiny of appointments, with a view to confirmation or rejection according to merit or demerit, together with a like check upon the power of removal, might well have been intrusted to a disinterested body permanently constituted as a feature of the judiciary branch. Such a function is in its nature judicial; hence, the judiciary seems the proper branch of the government to exercise it. The spoils system might thus be absolutely eliminated from our politics. In that event, the office of Senator would cease to stand for inordinate personal power, would cease to imply the overlordship in a State, and would gain in true dignity by limitation to its rightful function.

It is, however, hardly thinkable that the Senators would consent to the abatement of any jot or tittle of their existing powers and privileges. Neither would the minor States consent to any amendment of the Constitution that would diminish their relative weight as members of the Union. The public must, therefore, bear as best it may the consequences of inequalities imposed by a dead past with reference to conditions either long since outgrown, or grown into aspects of evil then wholly unsuspected. But, should oppression from this source become intolerable, some way will surely be found to be rid of it.

SYLVESTER BAXTER.